



Planning Division

129 North Second Street, 2nd Floor Yakima, Washington 98901

(509) 575-6183 • Fax (509) 575-6105

www.buildingyakima.com • www.yakimawa.gov/services/planning/

**CITY OF YAKIMA
NOTICE OF APPLICATION, NOTICE OF PUBLIC HEARING AND DETERMINATION
OF NON-SIGNIFICANCE**

DATE: June 27, 2013
TO: SEPA Reviewing Agencies, and Interested Parties
FROM: Steve Osguthorpe, Community Development Manager
SUBJECT: Notice of Application, Public Hearing and Determination of Non-Significance

NOTICE OF APPLICATION

Project Location: Citywide.
Project Applicant: City of Yakima, Planning Division
File Numbers: SEPA #011-13
Date of Application: June 24, 2013
Date of Determination of Completeness: June 25, 2013

PROJECT DESCRIPTION

The City of Yakima Planning Department is proposing an amendment to the City of Yakima's Urban Area Zoning Ordinance adding a new Chapter 15.29 Wireless Communication Facilities. The new chapter proposes language to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;
5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

The draft ordinance provides for a hierarchy of preferred locations, site design, height restrictions, proximity limitations from residential and historic districts, and aesthetic criteria which apply to new wireless facilities prior to locating in a residential zone, or historic district. The proposed ordinance allows wireless communication towers in all city zoning districts, however siting criteria and other development standards apply to residentially zoned property, and historic districts (See Environmental Checklist SEPA#011-13 for further description and explanation online at: <http://www.yakimawa.gov/services/planning/postcard>, or <http://www.yakimawa.gov/services/planning> (Quick Links)


ENVIRONMENTAL REVIEW

The City of Yakima has reviewed the proposed project for probable adverse environmental impacts, and has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2) (c). The information relied upon in reaching this determination is available to the public upon request at the City of Yakima Planning Division.

- ☒ This DNS is issued under WAC § 197-11-340(2); the lead agency will not act on this proposal for 20 days from the date below.

Responsible Official:	<u>Steve Osguthorpe, AICP</u>
Position/Title:	<u>SEPA Responsible Official</u>
Phone:	<u>(509) 575-6163</u>
Address:	<u>129 N. 2nd Street, Yakima, WA 98901</u>

Date: June 27, 2013

Signature: 

REQUEST FOR WRITTEN COMMENTS: Agencies, tribes, and the public are encouraged to review and comment on the proposed application. All written comments received by **July 17, 2013**, will be considered prior issuance of the final threshold determination. Please send written comments to: Steve Osguthorpe, Community Development Manager; City of Yakima, Department of Community Development; 129 North 2nd Street, Yakima, Washington 98901.

The following conditions have been identified that may be used to mitigate the adverse environmental impacts of the proposal: No impacts identified.

Required Permits – None.

Required Studies – None.

Existing Environmental Documents: SEPA/GMA Integrated Environmental Summary.
Preliminary determination of the development regulations that will be used for project mitigation and consistency: N/A

NOTICE OF DECISION

Decisions and future notices will be sent to anyone who submits comments on this application or request additional notice. The file containing the complete application is available for public review at the City of Yakima Planning Division, 2nd floor City Hall, 129 North 2nd Street, Yakima, Washington. If you have any question on this proposal, please call Jeff Peters, Associate Planner at (509) 575-6163 or e-mail at jeff.peters@yakimawa.gov.

NOTICE OF PUBLIC HEARING This application will require two public hearings; one closed record hearing before the City of Yakima Planning Commission to be followed by an open record public hearing before the Yakima City Council. The public hearing before the City of Yakima Planning Commission has been scheduled for **August 7, 2013**, beginning at **2:00 pm**, in the Council Chambers, City Hall, 129 N 2nd Street, Yakima, WA. Any person desiring to express their views on this matter is invited to attend the public hearing or to submit their written comments to: City of Yakima, Planning Division, 129 N 2nd St., Yakima, WA 98901. **A separate public notice will be provided for the public hearing before the Yakima City Council.**



ENVIRONMENTAL CHECKLIST

STATE ENVIRONMENTAL POLICY ACT (SEPA)

(AS TAKEN FROM WAC 197-11-960)

YAKIMA MUNICIPAL CODE CHAPTER 6.88

PURPOSE OF CHECKLIST

The State Environmental Policy Act (SEPA), RCW Ch. 43.21C, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

INSTRUCTIONS FOR APPLICANTS

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can. You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later. Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you. The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

USE OF CHECKLIST FOR NONPROJECT PROPOSALS

Complete this checklist for non-project proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND INFORMATION (To be completed by the applicant.)

1. Name Of Proposed Project (If Applicable): City of Yakima Urban Area Zoning Ordinance Wireless Communication Amendment.
2. Applicant's Name & Phone: City of Yakima Planning Department, 509-575-6183.
3. Applicant's Address: 129 North Second Street, Yakima, WA 98901.
4. Contact Person & Phone: Mark Kunkler (509) 575-3552, or Jeff Peters at (509) 575-6163
5. Agency Requesting Checklist: City of Yakima
6. Date The Checklist Was Prepared: June 24, 2013.
7. Proposed Timing Or Schedule (Including Phasing, If Applicable): N/A
8. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain: Not at this time.

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9. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal: None.

10. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain: None pending

11. List any government approvals or permits that will be needed for your proposal, if known: SEPA determination, City of Yakima Planning Commission Public Hearing, and City Council Approval.

12. Give a brief, but complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.):

This proposal includes an amendment to the City of Yakima's Urban Area Zoning Ordinance adding a new Chapter 15.29 Wireless Communication Facilities. The new chapter proposes language to:

- a. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
- b. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
- c. Encourage personal wireless service providers to co-locate on new and existing tower sites;
- d. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;
- e. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
- f. Provide for the wireless communications needs of governmental entities.

The draft ordinance provides for a hierarchy of preferred locations, site design, height restrictions, proximity limitations from residential and historic districts, and aesthetic criteria which apply to new wireless facilities prior to locating in a residential zone, or historic district. The proposed ordinance allows wireless communication towers in all city zoning districts, however siting criteria and other development standards apply to residentially zoned property, and historic districts (see draft ordinance for more information).

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13. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.: City limits.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
1. Earth	
a. General description of the site (✓ one):	
<input type="checkbox"/> flat <input type="checkbox"/> rolling <input type="checkbox"/> hilly <input type="checkbox"/> steep slopes <input type="checkbox"/> mountainous <input type="checkbox"/> other	
b. What is the steepest slope on the site (approximate percent slope)? N/A.	
c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. See United States Department of Agriculture Soil Conservation Service <u>Soil Survey of Yakima County Area Washington</u>	
d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. See United States Department of Agriculture Soil Conservation Service <u>Soil Survey of Yakima County Area Washington</u>	
e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill. None	
f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. N/A	
g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? N/A	
h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: N/A	
2. Air	
a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, and industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. N/A.	

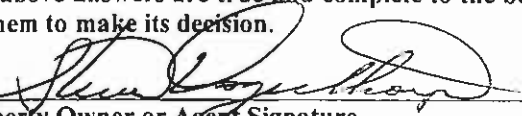
B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. N/A.	<div data-bbox="1266 457 1477 520">RECEIVED</div> <div data-bbox="1258 541 1477 604">JUN 24 2013</div> <div data-bbox="1250 604 1477 688">CITY OF YAKIMA PLANNING DIV.</div>
c. Proposed measures to reduce or control emissions or other impacts to air, if any: N/A	
3. Water	
a. Surface:	
1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. N/A	
2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. N/A	
3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. N/A	
4. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. No	
5. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. N/A	
6. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. N/A	
b. Ground:	
1. Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known. N/A	
2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. N/A	
c. Water Runoff (including stormwater):	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. N/A</p>	<p>RECEIVED</p> <p>JUN 24 2013</p> <p>CITY OF YAKIMA PLANNING DIV.</p>
<p>2. Could waste materials enter ground or surface waters? If so, generally describe. N/A</p>	
<p>3. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any: N/A</p>	
<p>4. Plants:</p>	
<p>a. Check (✓) types of vegetation found on the site:</p>	
<p>Deciduous Tree: <input checked="" type="checkbox"/> Alder <input checked="" type="checkbox"/> Maple <input checked="" type="checkbox"/> Aspen <input type="checkbox"/> Other</p>	
<p>Evergreen Green: <input checked="" type="checkbox"/> Fir <input checked="" type="checkbox"/> Cedar <input checked="" type="checkbox"/> Pine <input type="checkbox"/> Other</p>	
<p><input checked="" type="checkbox"/> Shrubs <input checked="" type="checkbox"/> Grass <input checked="" type="checkbox"/> Pasture Crop Or Grain <input type="checkbox"/> Other</p>	
<p>Other Types Of Vegetation:</p>	
<p>b. What kind and amount of vegetation will be removed or altered? None</p>	
<p>c. List threatened or endangered species known to be on or near the site. There are minor amounts of threatened or endangered species know to live in or around the city limits of Yakima, however this proposal does not involve any change to the land or habitat, and is considered none-project.</p>	
<p>d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: N/A</p>	
<p>5. Animals:</p>	
<p>a. Check (✓) any birds and animals which have been observed on or near the site or are known to be on or near the site:</p>	
<p>Birds: <input checked="" type="checkbox"/> Hawk <input checked="" type="checkbox"/> Heron <input checked="" type="checkbox"/> Eagle <input checked="" type="checkbox"/> Songbirds <input type="checkbox"/> Other</p>	
<p>Mammals: <input type="checkbox"/> Deer <input type="checkbox"/> Bear <input type="checkbox"/> Elk <input checked="" type="checkbox"/> Beaver <input type="checkbox"/> Other</p>	
<p>Fish: <input checked="" type="checkbox"/> Bass <input checked="" type="checkbox"/> Salmon <input checked="" type="checkbox"/> Trout <input type="checkbox"/> Herring <input type="checkbox"/> Shellfish <input type="checkbox"/> Other</p>	
<p>b. List any threatened or endangered species known to be on or near the site. There are minor amounts of threatened or endangered species know to live in or around the city limits of Yakima, however this proposal does not involve any change to the land or habitat, and is considered none-project.</p>	
<p>c. Is the site part of a migration route? If so, explain. Migratory birds may utilize property within the City limits; however this proposal does not involve any change to the land or habitat, and is considered none-project.</p>	
<p>d. Proposed measures to preserve or enhance wildlife, if any: N/A</p>	
<p>6. Energy and Natural Resources</p>	
<p>a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. N/A</p>	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. N/A</p> <p>c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: N/A</p>	<p>RECEIVED</p> <p>JUN 24 2013</p> <p>CITY OF YAKIMA PLANNING DIV.</p>
<p>7. Environmental Health</p>	
<p>a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe. N/A</p>	
<p>1. Describe special emergency services that might be required. N/A</p>	
<p>2. Proposed measures to reduce or control environmental health hazards, if any: N/A</p>	
<p>b. Noise</p>	
<p>1. What types of noise exist in the area, which may affect your project (for example: traffic, equipment, operation, other)? N/A</p>	
<p>2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. N/A</p>	
<p>3. Proposed measures to reduce or control noise impacts, if any: N/A</p>	
<p>8. Land and Shoreline Use</p>	
<p>a. What is the current use of the site and adjacent properties? N/A</p>	
<p>b. Has the site been used for agriculture? If so, describe. Many of the properties within the City of Yakima have been used for agriculture purposes in the past.</p>	
<p>c. Describe any structures on the site. N/A</p>	
<p>d. Will any structures be demolished? If so, what? N/A</p>	
<p>e. What is the current zoning classification of the site? The current zoning classifications which are effected by these amendments are as follows: SR, R-1, R-2, R-3, B-1, B-2, HB, SCC, LCC, AS, GC, CBD, RD, and M-1</p>	
<p>f. What is the current comprehensive plan designation of the site? The Comprehensive Plan designations within the City of Yakima area as follows: Low Density Residential, Medium Density Residential, High Density Residential, Professional Office, Neighborhood Commercial, Community Commercial, General Commercial, Regional Commercial, CBD Core Commercial, and Industrial.</p>	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
g. If applicable, what is the current shoreline master program designation of the site? N/A	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 24 2013</p> <p style="text-align: center;">CITY OF YAKIMA PLANNING DIV.</p>
h. Has any part of the site been classified as an "environmentally sensitive" area? If so specify. N/A – Non-Project Action	
i. Approximately how many people would reside or work in the completed project? N/A	
j. Approximately how many people would the completed project displace? N/A	
k. Proposed measures to avoid or reduce displacement impacts, if any. N/A	
l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: The existing proposal will modify the above mentioned City of Yakima regulations and land use plans.	
9. Housing	
a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. N/A	
b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. N/A	
c. Proposed measures to reduce or control housing impacts, if any: N/A	
10. Aesthetics	
a. What is the tallest height of any proposed structures, not including antennas; what are the principal exterior building materials proposed? The tallest height that this ordinance allows for an antenna in the residential and historic districts is sixty feet. In all other zones 100 feet is the maximum allowed height.	
b. What views in the immediate vicinity would be altered or obstructed? N/A	
c. Proposed measures to reduce or control aesthetic impacts, if any: The draft ordinance proposes to impose screening and other site design criteria to reduce the aesthetic impacts of wireless communication facilities (see draft ordinance for additional information).	
11. Light and Glare	
a. What type of light or glare will the proposal produce? What time of day would it mainly occur? None, however the ordinance does provide regulation of lighting.	
b. Could light or glare from the finished project be a safety hazard or interfere with views? N/A	
c. What existing off-site sources of light or glare may affect your proposal? None	
d. Proposed measures to reduce or control light and glare impacts, if any: None, however the ordinance does provide regulation of lighting.	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
12. Recreation	<p>RECEIVED</p> <p>JUN 24 2013</p> <p>CITY OF YAKIMA</p> <p>PLANNING DIV.</p>
a. What designated and informal recreational opportunities are in the immediate vicinity? N/A	
b. Would the proposed project displace any existing recreational uses? If so, describe. N/A	
c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: N/A	
13. Historic and Cultural Preservation	
a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe. N/A	
b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural important known to be on or next to the site. N/A	
c. Proposed measures to reduce or control impacts, if any: The draft ordinance provides language to regulate, limit, and reduce the impacts of wireless communication towers within residential and historic districts.	
14. Transportation	
a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any. N/A	
b. Is site currently serviced by public transit? If not, what is the approximate distance to the nearest transit stop? N/A	
c. How many parking spaces would the completed project have? N/A How many would the project eliminate? N/A	
d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private). N/A	
e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. N/A	
f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur. N/A	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)		Space Reserved for Agency Comments
g. Proposed measures to reduce or control transportation impacts, if any: N/A		RECEIVED JUN 24 2013 CITY OF YAKIMA PLANNING DIV.
15. Public Services		
a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe: N/A		
b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity, which might be needed. N/A		
16. Utilities		
a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.		
b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity, which might be needed. N/A		
C. SIGNATURE (To be completed by the applicant.)		
The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.		
 Property Owner or Agent Signature		6-24-13 Date Submitted
PLEASE COMPLETE SECTION "D" ON THE NEXT PAGE IF THERE IS NO PROJECT RELATED TO THIS ENVIRONMENTAL REVIEW		

D. SUPPLEMENT SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (DO NOT USE THE FOLLOWING FOR PROJECT ACTIONS)	Space Reserved For Agency Comments
<p>Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal or the types of activities that would likely result from the proposal and how it would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented.</p>	<p style="text-align: center; font-size: 1.5em; font-weight: bold;">RECEIVED</p> <p style="text-align: center; font-size: 1.2em; font-weight: bold;">JUN 24 2013</p> <p style="text-align: center; font-weight: bold;">CITY OF YAKIMA PLANNING DIV.</p>
<p>1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? The proposed Zoning Ordinance change will not affect how land uses discharge to water, emissions to the air, storage, or release of toxic or hazardous substances, or the production of noise.</p>	
<p>Proposed measures to avoid or reduce such increases are: As the proposal will not increase any of the above environmental conditions, no measures to avoid or reduce these conditions have been proposed.</p>	
<p>2. How would the proposal be likely to affect plants, animals, fish, or marine life? The proposed zoning changes will not affect plants, animals, fish, or marine life as all the proposed changes will not change any existing environmental regulations.</p>	
<p>a. Proposed measures to protect or conserve plants, animals, fish, or marine life are: As the proposal will not effect any of the above animal life, no measures to protect or conserve plant and animal life has been proposed.</p>	
<p>3. How would the proposal be likely to deplete energy or natural resources? The proposed zoning amendments do not involve regulations dealing with energy or natural resources.</p>	
<p>Proposed measures to protect or conserve energy and natural resources are: None proposed.</p>	
<p>4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? The proposed zoning amendments do not propose any change to regulations for environmentally sensitive areas or areas designated for governmental protection.</p>	
<p>Proposed measures to protect such resources or to avoid or reduce impacts are: None proposed.</p>	
<p>5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? No change to land and shoreline uses are proposed.</p>	
<p>Proposed measures to avoid or reduce shoreline and land use impacts are: None proposed</p>	
<p>6. How would the proposal be likely to increase demands on transportation or public services and utilities? The proposed zoning changes would not be likely to increase demand on the transportation or public service system and utilities as the regulatory changes only address processing of various land use applications.</p>	
<p>Proposed measures to reduce or respond to such demand(s) are: None proposed.</p>	

D. SUPPLEMENT SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (DO NOT USE THE FOLLOWING FOR PROJECT ACTIONS)	Space Reserved For Agency Comments
<p>7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.</p> <p>The proposed zoning amendments will not conflict with any local, state, or federal laws, or requirements for the protection of the environment.</p>	

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Chapter 15.29
WIRELESS COMMUNICATIONS FACILITIES

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Sections:

- 15.29.010 Purpose.
- 15.29.020 Definitions.
- 15.29.030 Exemptions.
- 15.29.040 Site selection criteria.
- 15.29.045 Prohibited locations.
- 15.29.050 Priority of locations.
- 15.29.060 Siting priority on public property.
- 15.29.070 Required submittals and testing.
- 15.29.080 Co-location.
- 15.29.090 Design criteria.
- 15.29.100 Permits required.
- 15.29.110 Inspection requirements.
- 15.29.120 Non-use/abandonment.
- 15.29.130 Third party review.
- 15.29.140 Conditional use permits – Procedures – Conditions for granting.
- 15.29.150 Conditional use permits – Effect of hearing examiner decision.
- 15.29.160 Application form.
- 15.29.170 Filing fees.
- 15.29.180 Notice of hearing – Conditional use permits.
- 15.29.190 Reapplication.
- 15.29.200 Transfer of ownership.
- 15.29.210 Vacation of permits.
- 15.29.220 Violation – Penalty.

15.29.010 Purpose.

A. The purpose of this chapter is to establish general guidelines for the siting of towers and antennas.

The goals of this chapter are to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;

5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

1. To manage the location of towers and antennas in the city;
2. To protect residential areas and land uses from potential adverse impacts of towers;
3. To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;
4. To accommodate an increased need for towers to serve the wireless communications needs of city residents;
5. To promote and encourage co-location on existing and new towers as an option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future;
6. To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and
7. To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures.

B. **New Uses.** All new antennas shall comply with this chapter after the date of passage of the ordinance codified in this chapter.

C. **Existing Uses.** All towers and antennas existing on the date of passage of the ordinance codified in this chapter shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this chapter.

1. These standards were developed to protect the public health, safety, and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the city and providing for wireless communications necessary for governmental purposes. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

2. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city.

3. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in Title 19 YMC, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

"Abandonment" means to cease operation for a period of sixty or more consecutive days.

"Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

"Antenna" means any exterior apparatus designed for telephonic, radio, data, internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced specialized mobile radio" and "personal communications services," telecommunications services, and its attendant base station.

"Antenna height" means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished natural grade of the parcel at the lowest elevation point of the support structure's perimeter. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

"Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

"Applicant" means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the city.

"Balloon test" means a test for a reasonable period of time, not less than three consecutive workdays, whereby a balloon of sufficient size to replicate the size of the top of a proposed tower and antenna array is tethered to the ground at the location of the proposed base for a pending new tower application and the

balloon is suspended at the height that replicates the height of the proposed tower and antenna array. No trees shall be removed to conduct the balloon test.

"Cable acts" means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, as amended by portions of the Telecommunications Act of 1996, and as hereafter amended.

"Cable operator" means a telecommunications carrier providing or offering to provide "cable service" within the city as that term is defined in the cable acts.

"Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Cable television service provider" means a service provider that provides cable television services within the city under a franchise.

"Camouflaged" means a personal wireless service facility that is disguised, hidden, or integrated within an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure, or new structure, tower, or mount within trees so as to be significantly screened from view, or designed to resemble surrounding natural features.

"Cell site" or "site" means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

"City" means the city of Yakima.

"City property" means all real property owned by the city whether in fee ownership or other interest.

"Co-location" means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

"Conditional use permit" or "CUP" means a process and approval as described in YMC Title 16, Administration of Development Permit Regulations, and in the YMC Title 15, Yakima Urban Area Zoning Ordinance. **[We do not utilize a "conditional use permit" mechanism. I have drafted a proposed CUP process in the later provisions of this Draft...]**

"COW" means "cell on wheels." A cell on wheels or other temporary personal wireless communications facility ~~shall be permitted for a maximum of ninety days in any three hundred sixty five day period or during an emergency declared by the city.~~

"Design" means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape.

"EIA" means the Electronics Industry Association.

"Equipment enclosure" means a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

"Excess capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.

"Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

"FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Franchise" means the general authority granted by the city council to a telecommunications service provider or to a cable television service provider to use city rights-of-way to provide services to locations within the city. A franchise issued by the city is a master permit within the meaning of RCW 35.99.010(3).

"Governing authority" means the city council of the city of Yakima.

"Governmental entity" means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

"Grantee" means both licensees and franchisees granted certain rights and obligations as more fully described herein.

"Hearings examiner" means the duly appointed hearings examiner of the city.

"License" means the general authority granted by the city to a service provider to use city rights-of-way to provide telecommunications services to locations outside of the city. A license issued by the city is a master permit within the meaning of RCW 35.99.010(3).

"Modification" means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

"Mount" means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

- A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
- B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
- C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

"Occupy" means to construct, install, maintain, own, or operate telecommunications facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via telecommunications facilities owned by another telecommunications provider does not constitute occupying the rights-of-way.

"Overhead facilities" means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

"Personal wireless service," "personal wireless service facilities," and "facilities" used in this title shall be defined in the same manner as in Title 47, USC, Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

"Provider" means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual that provides personal wireless service over personal wireless service facilities.

"Rights-of-way" means land acquired or dedicated for public roads and streets, as further defined in 15.02.020, but does not include (a) land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; (b) structures, including poles and conduits, located within the right-of-way; or (c) federally granted railroad rights-of-way acquired under 43 USC, Section 912, and related provisions of federal law, that are not open for motor vehicle use.

"Right-of-way use permit" means the authorization by which the city grants permission to a service provider to enter and use the right-of-way at a specific location for the purpose of installing, maintaining, repairing, or removing identified facilities.

"Screening" means a continuous fence and/or evergreen landscaped planting that effectively obscures conceals the property it encloses.

"Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public.

Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

"State" means the state of Washington.

"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.

"Secondary use" means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

"Security barrier" means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

"Telecommunications carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.

"Telecommunications service" means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of definition "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service excludes the over-the air transmission of broadcast television or broadcast radio signals, facilities necessary for governmental purposes, the city shall act within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with condition, or deny the application in accordance with the time frames set forth in YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

"Telecommunications service provider" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.

"Utility facilities" means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.

"Unlicensed wireless services" means commercial mobile services that operate on public frequencies and do not need an FCC license.

"Washington Utilities and Transportation Commission" or "WUTC" means the state administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers in the state of Washington to the extent prescribed by law.

15.29.030 Exemptions.

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
- B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.
- C. Radar systems for military and civilian communication and navigation.
- D. Wireless radio utilized for temporary emergency communications in the event of a disaster.
- E. Licensed amateur (ham) radio stations.
- F. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.
- G. Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structural work or changes in height, type or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this chapter are maintained.
- H. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty days after the completion of such emergency activity.

I. A COW or other temporary personal wireless telecommunications facility shall be permitted for a maximum of ninety days in any three hundred sixty-five day period or during an emergency declared by the city.

15.29.040 Site selection criteria.

A. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall evaluate different sites to determine which site will provide the best screening and camouflaging while providing adequate service to satisfy its function in the applicant's local grid system. If the applicant proposes a site that does not provide the best opportunities for screening and camouflaging then the applicant must demonstrate by engineering evidence why the facility cannot be located at the site where it can be best screened and camouflaged and why the antenna must be located at the proposed site. Further, the applicant must demonstrate by engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the grid system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.

C. Low power mobile radio service facilities shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

D. In all zones, location and design of facilities shall consider the impact of the facility on the surrounding neighborhood and the visual impact within the zone district. In all zones, towers shall be significantly screened by placing them in trees to the extent that it does not result in significant signal degradation.

15.29.045 Prohibited locations.

Except as provided in 15.29.045, Antennas and antenna support facilities are not permitted within 800 feet of any established federal, state or local historic districts or historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites.

15.29.050 Priority of locations.

The order of priorities for locating new personal wireless service facilities shall be as follows:

A. Place antennas and towers on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers in the industrial and commercial zoning districts.

B. Place antennas and towers in districts zoned Professional Office, Public Open Space and Limited Open Space, at least 800 feet from residential zoning districts or established federal, state or local historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites.

[What might be corresponding zoning districts in Yakima?]

C. Place antennas and towers in residential zoning districts or within 800 feet of residential zoned districts or established federal, state or local historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites, subject to the following conditions:-

1. An applicant that wishes to locate a new antenna support structure in a residential zone, or within 800 feet of residential zoned districts or established federal, state or local historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a nonresidential zone, and that due to valid considerations including physical constraints, and ~~economic or technological~~ feasibility, no appropriate location is available.
2. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.
3. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.
4. The proposed antenna, tower and antenna support structure is camouflaged.

15.29.060 Siting priority on public property.

A. Where public property is sought to be utilized by an applicant, priority for the use of city-owned land for wireless antennas and towers will be given to the following entities in descending order:

1. City of Yakima;
2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of ~~Monroe~~ Yakima and private entities with a public safety agreement with the city of Yakima;
3. Other governmental entities, for uses that are not related to public safety; and
4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, internet, paging, and similar services that are marketed to the general public.

B. Minimum Requirements. The placement of personal wireless service facilities on city-owned property is subject to the discretion and approval of the city and must comply with the following requirements:

1. The facilities will not interfere with the purpose for which the city-owned property is intended;
2. The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition required by city;
3. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
5. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users.
6. The applicant must reimburse the city for any related costs that the city incurs because of the presence of the applicant's facilities;
7. The applicant must obtain all necessary land use approvals; and
8. The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested.

C. Special Requirements for Parks. The use of city-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The city parks commission has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation must be forwarded to the city council for consideration;
2. In no case shall personal wireless service facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities;

3. Before personal wireless service facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated;
4. Personal wireless service facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
5. Personal wireless service facilities may be located in park maintenance facilities.

15.29.070 Required submittals and testing.

Required submittals include:

- A. If the applicant is not the landowner, the landowner(s) shall be considered co-applicant(s) and shall sign the application. If any applicant is a corporation, trust, association, or other organized group or legal entity, it shall provide the date of such creation, and, if a foreign corporation, a copy of the certificate of authority filed with the state of Washington, Secretary of State's Office.
- B. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:
 1. They agree to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original condition within the applicable time limits set forth in YMC 15.29.120 following receipt of a letter from the city indicating that the facility is deemed abandoned or in violation of this chapter, and,
 2. In the case of freestanding /antenna support structures, they consent to co-location, at reasonable terms, of as many antennas and related equipment as feasible, including those of other communication providers, on the applicant's structure/site.
- C. Complete application for conditional use permit, including State Environmental Policy Act (SEPA) checklist.
- D. A balloon test is required for any proposed antenna tower. The balloon test shall be conducted prior to the hearing on the permit application. The purpose of the balloon test is to enable the applicant, abutting and neighboring property owners, and the city to better understand the height and visual impact of the proposed tower and antenna array and to provide useful evidence for consideration before the hearing examiner on the permit application. A balloon test is also required when an application proposes to add twenty feet or more to the height of an existing wireless facility.

E. Other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information required by this chapter in addition to any the additional requirements of YMC Title 15-16 [2], Administration of Development Permit Regulations, and other applicable ordinances;:

F. If a balloon test is not required then a photo-simulation of the proposed facility from affected residential properties and public rights-of-way at varying distances must be provided. If a balloon test is required, then photos of the balloon test from six locations located approximately three hundred feet from the base of the proposed tower and spaced evenly around the proposed tower shall be submitted within two weeks after the commencement of the balloon test;

G. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;

H. A signed statement indicating that (1) the applicant and landowner agree they will diligently negotiate in good faith to facilitate allow co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to prevailing market rates, and (2) the applicant and/or landlord agree to remove the facility within 60 days after abandonment;

I. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

J. A site plan clearly indicating the location, type and height of the proposed tower or antenna support structure and antenna, accessory buildings, fencing, landscaping, topographic contours of the site at two-foot intervals, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower; and all other items required in this chapter;

K. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city;

L. Legal description of the parcel, if applicable;

M. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;

N. A landscape plan showing specific landscape materials;

- O. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;
- P. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations;
- Q. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users;
- R. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;
- S. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC; and
- T. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the city.

15.29.080 Co-location.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

A. Proposed facilities may, and are encouraged to, co-locate onto existing towers. Such co-location is permitted by right and a new or additional conditional use permit approval is not required, unless additional height or dimensions are proposed that constitute a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, except that co-location shall be accomplished in a manner consistent with the policy, site criteria, and landscape/screening/camouflaging provisions contained in this chapter.

The applicant must submit detailed plans to the planning department to determine if the conditional use can be waived. No building permit will be issued until approval is granted.

- C. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.
- D. To reduce the number of antenna support structures needed in the city in the future, new proposed support structures shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for technical or physical reasons.
- E. Unless co-location is not feasible: (i) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the

base of the tower or mount for other providers will meet the reservation requirement; and (ii) the site plan for towers must propose space for at least one comparable provider.

F. All personal wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the city may require a third party technical study, at the expense of the applicant to resolve the dispute.

G. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.

15.29.090 Design criteria.

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. All facilities shall comply with the following standards: ~~be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.~~

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In residential zones or where a proposed tower is on property abutting a residential use, towers shall be set back from all property lines a distance equal to one hundred percent of tower height as measured from ground level. In all other zones, or where a proposed tower site does not adjoin an existing residential use, towers shall be set back a minimum of thirty feet. When making a decision on a variance application to reduce setbacks, the hearing examiner shall consider the following:

a. Impact on adjacent properties, including viewsheds, shadowing, visual dominance of the tower and base structures as seen from streets and rights-of-way, and historic integrity of the neighborhood;

b. Alternative sites for personal wireless facilities; and

c. The extent to which screening and camouflaging will mitigate the effects of the personal wireless facilities.

2. Right-of-Way Setback Exception. The setback requirement is waived if the antenna and antenna support structure are located in the city right-of-way, provided the antenna is attached to an existing utility pole and does not substantially increase the height of the utility pole and/or extend above the utility pole by an amount determined to be a substantial modification pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and applicable interpretations of the Federal Communications Commission more than ten feet. Wireless facilities attached to utility poles are permitted in all zones subject to approval by the city in its sole discretion, and pursuant to license or franchise agreements with the city.

3. Tower and Antenna Height. The applicant shall have the burden of demonstrating that the tower and antenna is the minimum height required to meet the proven communications need. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount together with antenna shall exceed sixty feet in all single-family, multifamily residential, Downtown Commercial, and Professional Office zones or one hundred ten feet in other zones.

4. Tower Separation. In no case shall towers be located closer than five hundred feet from another tower whether it is owned or utilized by applicant or another provider, unless the city designates areas where multiple towers can be located in closer proximity.

5. Color. Towers shall have a dark color such as forest green, charcoal or dark brown, depending on generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

6. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

7. Fencing. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip.

8. Landscaping.

a. Landscaping. Landscaping, as described herein, shall be required to buffer personal wireless service facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping. Wire fencing may be allowed if it is fully screened. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. Buffers. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures, ~~except that the city may waive the standards for these sides of the facility that are not in public view.~~ Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

i. A row of evergreen trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence.

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

iiiv. To guarantee required landscaping the applicant shall provide the city with a two-year landscape maintenance guarantee in accordance with MMC 18.78.060.

ivv. In the event that landscaping is not maintained at the required level after the two-year landscape guarantee period, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

9. Screening. Screening, camouflaging or otherwise integrating a telecommunications facility into existing ~~structures-features~~ on the site in order to make the facility as visually unobtrusive as possible, shall take priority over increased height to accommodate co-location. A personal wireless telecommunications facility shall be integrated through location and design to blend in with the existing "character" of the site so as to be visually unobtrusive or screened. To be considered screened the tower or mount shall be placed amongst and adjacent to (within twenty feet) of the drip line of three or more trees at least seventy-five percent of the height of the facility. To ensure the screening trees are preserved the following note shall be recorded on the property title:

All trees within 50 feet of the telecommunications facility located on this property, which serve to screen the telecommunications facility shall be retained for the life of the telecommunications facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed.

If located within 800 feet of a residential zoning district or established federal, state or local historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites, camouflaging shall be accomplished by designing the facility to look like surrounding trees or other customary structures in the area.

10. Required Parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking

shall be made and documentation thereof provided to the city. Security fencing should be colored or should be of a design which blends into the existing environment.

11. Antenna Criteria. Antenna on or above a structure shall be subject to the following:

- a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.
- b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than sixteen feet above the roofline, including parapets.
- c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
- e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color. Materials shall be brick, split face block, horizontal siding, or similar high quality durable materials common to residential or commercial buildings.
- f. The antenna and any accessory buildings must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.
- g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the city, in the city's sole discretion.
- h. On buildings thirty feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:
 - i. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

ii. Roof-mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.

i. For antenna attached to the roof or sides of a building at least thirty feet in height, an existing tower, a water tank, or a similar structure the antenna must be either: An omnidirectional or whip antenna no more than seven inches in diameter and extending no more than sixteen feet above the structure to which they are attached; or

A panel antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than ten feet.

If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.

Antenna, antenna arrays, and support structures not on publicly owned property shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of one hundred miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with matches the field or trim color of the structure on which they are mounted.

j. Guy Wires Restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.

k. If a proposed antenna is located on a building or a lot subject to a land use permit, approval is required prior to the issuance of a building permit.

12. Equipment Structures.

a. Ground level equipment, buildings, and the tower base shall be screened from public view and from the view of abutting properties. The standards for the equipment buildings are as follows:

b. The maximum floor area is three hundred square feet and the maximum height is twelve feet.

c. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than two hundred fifty feet from the tower or antenna. Depending upon the aesthetics and other issues, the city, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

de. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

ed. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.

fe. Roof-mounted. Equipment buildings mounted on a roof shall ~~have a finish similar to the exterior building walls~~ be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent of the total roof area of the building the facility is mounted on, which may vary in the city's sole discretion if co-location and an adequate screening structure is used.

13. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the city to remove a provider's facilities at the provider's expense.

14. Building Codes – Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner's expense.

15. **Structural Design.** Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrates compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC RF Emission standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

16. **Antenna Support Structure Safety.** The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

15.29.100 Permits required.

In addition to the other provisions of this chapter the following permits are required unless otherwise stated:

A. A conditional use permit is required for all proposed antenna towers.

B. Procedures governing variances are set forth in Chapter 15.21 YMC; provided, however, that the criteria for variance approval shall be governed by the following provisions. A variance from the height limit may be granted if the applicant can show by evidence that the additional height is necessary to provide adequate service to the residents of the city and no other alternative is available. When granting a variance the examiner shall require that a significant portion of the of the tower and related facilities be screened by existing trees or existing structures.

1. The purpose of this subsection is to provide a means of increasing the maximum height of tower and antenna in specific instances where the strict application of those limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven communications need.

2. The examiner shall have the authority to grant a variance from the maximum height allowed for tower or antenna when, in his/her opinion, the conditions as set forth in subsection (3C) herein have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

3. Before a height variance can be granted, it shall be shown that the applicant demonstrates all of the following:

- a. That there is evidence that additional height is required to provide adequate service to the residents of the city and that no other alternative is available;
- b. That there are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;
- c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
- d. That any visual impacts will be mitigated to the greatest extent possible using camouflage or screening, including but not limited to strategic placement next to existing buildings or vegetation or incorporation with architectural features of existing buildings or structures;
- e. That the location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
- f. That the variance is the minimum necessary to grant relief to the applicant.

4. The applicant has the burden of proving that the proposed variance meets all of the criteria in subsection (B)(3) of this section, Decision Criteria.

5. The examiner may approve an application for a variance with additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions.

6. The examiner shall deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection (B)(3) of this section,

- a. Project permit review procedures are specified in YMC Title 16, Administration of Development Permit Regulations. The following table specifies the permits required for the various types of personal wireless service facilities that meet the standards of this chapter:

Permit Table

(fn.1)

Type of Use	Conditional	Over	Variance
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	Use (fn.2)	Counter	
Towers < 60 Feet (fn.4)			
Towers > 60 Feet	X		X (fn.3)
Towers > 110 Feet (fn.4)	X		X
Existing Structure Mounted			
Building Mounted		X	
Co-Location		X	
Tower Modification			X (fn.5)

Notes:

1. Right-of-way and site development permits may also be required depending on type and location of facilities.
2. Towers must be located in other than in Downtown Commercial, and Professional Office zones.
3. In residential, Downtown Commercial, and Professional Office zones.
4. Towers must be located on nonresidential property.
5. For towers in excess of one hundred ten feet outside of residential, Downtown Commercial and Professional Office zones.

15.29.110 Inspection requirements.

Within 60 days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months. The applicant shall provide a financial guarantee in the form of a bond or other financial instrument acceptable to the city in an amount sufficient to reimburse all costs associated with facility removal should it be necessary.

15.29.120 Non-use/abandonment.

A. Abandonment. No less than thirty days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the city of Yakima by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the city's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days or additional period of time determined in the reasonable discretion of the city within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove the portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.

3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above, this provision shall not become effective until all providers cease using the facility.

At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire.

15.29.130 Third party review.

Personal wireless service providers use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of their services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process. The costs of the technical review shall be borne by the provider.

The selection of the third party expert may be by mutual agreement between the provider and the city, or, at the discretion of the city, with a provision for the provider and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to address interference and public safety issues and be a site-specific review of technical aspects of the facilities or a review of the providers' methodology and equipment used and not a subjective review of the site that was selected by a provider. Based on the results of the expert review, the city may require changes to the provider's application. The expert review shall address the following:

- A. The accuracy and completeness of submissions;
- B. The applicability of analysis techniques and methodologies;
- C. The validity of conclusions reached; and

D. Any specific technical issues designated by the city.

15.29.140 Conditional use permits – Procedures – Conditions for granting.

A. Application. An application for a conditional use permit under this chapter shall be submitted to the director of the city's community development department who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and Title 16 YMC. Prior to issuing a determination of completeness, the director shall have authority to request additional information and reports from the applicant, including but not limited to third party review in accordance with YMC 15.29.130 and reports, surveys and tests as provided in YMC 15.29.070, when the director, in his or her sole discretion, deems such additional information necessary or appropriate to make the application complete, to address mitigation measures identified in SEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety or persons, or quiet enjoyment of property, identified by the director as likely, with reasonable probability, to result from the proposed project.

Upon the director's determination that the application is complete and in compliance with filing requirements of this chapter, the director, in coordination with the hearing examiner, shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of Title 16 YMC.

B. Hearing Examiner. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

(1) Before any conditional use may be granted, it shall be shown that:

- (a) The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;
- (b) The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;
- (c) The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
- (d) The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan;

(e) All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located.

(2) The conditions may:

(a) Increase requirements in the standards, criteria or policies established by this title;

(b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

(c) Require structural features or equipment essential to serve the same purpose set forth above;

(d) Impose conditions similar to those set forth in subsections (2)(b) and (2)(c) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

(e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;

(f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and

(g) Require the posting of construction and maintenance financial security sufficient to secure to the city one hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.

15.29.150 Conditional use permits – Effect of hearing examiner decision.

The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030.

15.29.160 Application form.

The director of the city's community development department may prescribe the form in which applications are made for a conditional use permit. The director may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.

15.29.170 Filing fees.

The application for a conditional use permit shall be accompanied by a filing fee in the amount of \$_____.

15.29.180 Notice of hearing – Conditional use permits.

Notice of all public hearings shall be given and prepared as required by Chapter 16.05 YMC.

15.29.190 Reapplication.

Upon final action as set forth in this chapter in denying an application for a conditional use permit, the city shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application.

15.29.200 Transfer of ownership.

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted.

15.29.210 Vacation of permits.

A. Any conditional use permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exist.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city.

15.29.220 Violation – Penalty.

Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes.